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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10 601,347	10/26/2001	Rajnish Batlaw	5343	3368

7590 12/17/2003  
William S. Parks  
P. O. Box 1927  
Spartanburg, SC 29304

EXAMINER

SHOSHO, CALLIE E

ART UNIT PAPER NUMBER

1714

DATE MAILED: 12/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/001,347

Applicant(s)

BATLAW, RAJNISH

Examiner

Callie E. Shosho

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 23-30 and 41-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-30 is/are allowed.
- 6) ☒ Claim(s) 41-44, 47 and 48 is/are rejected.
- 7) ☒ Claim(s) 45, 46, 49 and 50 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. All outstanding rejection except for those described below are overcome by applicant's amendment filed 10/6/03.

The restriction requirement as set forth in paragraphs 1-4 of the office action mailed 9/25/03 is rendered moot in view of the cancellation of claims 11-22 and 31-40.

**Claim Rejections - 35 USC § 102**

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 41-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Harris et al. (U.S. 5,886,091) taken in view of the evidence in Krutak et al. (U.S. 5,194,463).

The rejection is adequately set forth in paragraph 6 of the office action mailed 9/25/03 and is incorporated here by reference.

It is further noted that Harris et al. disclose the use of black colorant including black pigment or dye (col.5, lines 19-20 and 34).

4. Claims 41-44 and 47-48 are rejected under 35 U.S.C. 102(b) as being anticipated by Harris et al. (U.S. 5,886,091) taken in view of the evidence in Cross et al. (U.S. 4,284,729).

The rejection is adequately set forth in paragraph 7 of the office action mailed 9/25/03 and is incorporated here by reference.

It is further noted that Harris et al. disclose the use of black colorant including black pigment or dye (col.5, lines 19-20 and 34).

#### **Response to Arguments**

5. Applicant's arguments regarding Baumgartner et al. (U.S. 4,812,141) have been considered but they are moot in view of the discontinuation of the use of this reference against the present claims.

6. Applicant's arguments filed 10/25/03 have been fully considered but, with the exception of arguments relating to Baumgartner et al., they are not persuasive.

Specifically, applicants argue that Harris et al. is not a proper reference against the present claims under 35 USC 102.

With respect to the 102 rejection utilizing Harris et al. taken in view of the evidence in Krutak et al., applicants argue that Harris et al. do not anticipate the present claims.

It is noted that Harris et al. disclose polymeric colorant, i.e. colored polyurethane, obtained from alkylene containing chromophore. With respect to the alkylene containing chromophore, Harris et al. refer to Krutak et al. for specific examples. Krutak et al. disclose alkylene containing chromophore that exhibits maximum absorption at 535 nm and 599 nm (examples 16 and 19).

Applicants argue that Harris et al. is not a proper 102 reference against the present claims given that while Harris et al. (as explicitly disclosed in Krutak et al.) disclose polymeric colorant

as claimed, to obtain such colorant, one must choose from 352 alkylene containing chromophores without any guidance.

However, although Harris et al. disclose the use of other types of chromophores, applicant's attention is drawn to MPEP 2131.02 (A) which states that "...when the species is clearly named, the species claim is anticipated no matter how many other species are additionally named". *Ex Parte A*, 17 USPQ2d 1716 (Bd. Pat. App. & Inter. 1990).

With respect to the 102 rejection utilizing Harris et al. taken in view of the evidence in Cross et al., applicants argue that Harris et al. do not anticipate the present claims.

It is noted that Harris et al. disclose polymeric colorant, i.e. colored polyurethane, obtained from alkylene containing chromophore. With respect to the alkylene containing chromophore, Harris et al. refer to Cross et al. for specific examples. Cross et al. disclose polyoxyalkylene colorant comprising nonionic chromophore that comprises polyoxyalkylene chains wherein the majority of chains are polyethylene oxide, polypropylene oxide, and/or polybutylene oxide.

Applicants argue that Harris et al. is not a proper 102 reference against the present claims given that while Harris et al. (as explicitly disclosed in Cross et al.) disclose polymeric colorant, there is no disclosure that the colorant exhibits the same  $\lambda_{\max}$  as presently claimed.

However, given that Harris et al. disclose colorant identical to that of the present invention, i.e. polyoxyalkylated colorant which comprises nonionic chromophore such as azo or anthraquinone, it is clear, absent evidence to the contrary, that such polymeric colorant would inherently possess same  $\lambda_{\max}$  as presently claimed.

Applicants also argue that there is no disclosure that the polymeric compounds of either Krutak et al. or Cross et al. provide toning.

However, while there is no disclosure in Harris et al. that the polymeric compounds disclosed by Harris et al. (explicitly recited in Krutak et al. or Cross et al.) provide toning, given that the polymeric compounds are identical to those presently claimed, it is clear that such compounds would inherently provide toning.

**Allowable Subject Matter**

7. Claims 23-30 are allowable over the "closest" prior art Harris et al. (U.S. 5,886,091) and Baumgartner et al. (U.S. 4,812,141) for the following reasons:

Harris et al. disclose gravure ink comprising pigment, solvent, resin, and polymeric colorant, i.e. colored polyurethane obtained from polyoxyalkylene containing chromophore. However, there is no disclosure or suggestion in Harris et al. that at brightness level of at least 26, the ink exhibits hue angle or a\* level, b\* level and hue angle as required in present claims 23-30.

Baumgartner et al. disclose the use of colored thermoplastic resin, suitable for use in gravure ink, which comprises colorant in the form of alkyleneoxy substituted chromophore wherein the chromophore is nonionic and the polyoxyalkylene chains contain ratio of polypropyleneoxy to polyethyleneoxy of, for instance, 3:1. However, there is no disclosure or suggestion in Baumgartner et al. that at brightness level of at least 26, the ink exhibits hue angle or a\* level, b\* level and hue angle as required in present claims 23-30. Further, while Harris et al. is drawn to colored polyurethane, Baumgartner et al. is drawn to colored thermoplastic resin

with no disclosure of polyurethane and thus, there is no motivation to combine Harris et al. with Baumgartner et al.

8. Claims 45-46 and 49-50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 45-46 and 49-50 would be allowable if rewritten in independent form given that there is no disclosure or suggestion in Harris et al. of polymeric colorant with polyoxyalkylene chains comprising combination of ethylene oxide monomers and propylene oxide monomers in a ratio of about 1:1.4 to about 1:4 as required in present claims 45-46 and 49-50.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

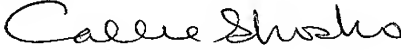
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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Callie E. Shosho whose telephone number is 571-272-1123. The examiner can normally be reached on Monday-Friday (6:30-4:00) Alternate Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

  
Callie E. Shosho  
Primary Examiner  
Art Unit 1714

CS  
12/8/03